

## **REMARKS**

Applicants have received and reviewed an Office Action dated February 26, 2007. By way of response, Applicants have amended claims 1, 3, 4, 8, 9, and 84 and added claims 85-87. Support for the amendment of claims 1, 3, 4, 8, 9 is found in the specification at least at page 6, lines 25-26. Support for new claims 85 and 86 is found in the specification at least at page 7, lines 1-2. Support for new claim 87 is found in the specification at least at page 11, lines 29-30 and Tables 1-6. Claim 84 was amended solely for clarification. No new matter is presented. Claims 1, 3-5, 7-9, and 84-87 are pending. Applicants submit that the pending claims are supported by the specification.

For the reasons given below, Applicants submit that the amended and newly presented claims are in condition for allowance and notification to that effect is earnestly solicited.

### **Rejections under 35 U.S.C. § 103(a)**

Claims 1, 3-5, 7-9 and 84 were rejected under 35 U.S.C. § 103(a) over Pletcher (1998) in view of Fetrow et al. (2000) in view of Flick (1995). Although this rejection has not been raised for the newly presented claims, it is discussed insofar as it might apply. Applicants respectfully traverse the rejection.

The claimed invention comprises alcohol extracts of *Sesamum indicum* and *Centella Asiatica* in combination with other ingredients. The total amount of extract, as set forth in the ranges of claim 1, is between 3 and 35 percent by weight. As amended, claim 1 specifically recites that the extracts are alcohol extracts.

Pletcher discloses an aromatherapeutic formulation made by simmering *Centella Asiatica* leaves in the oil of *Sesamum indicum*. Aromatic compounds from the leaves are extracted into the oil, thereby releasing the compounds for the purposes of employing their aroma. The formulation results in a mixture of leaf matter, extracted compounds, and oil, wherein these ingredients constitute 100 weight percent of the formulation.

Fetrow discloses a method of making herbal oil by adding leaf matter to oil and allowing the mixture to stand in a warm area (on a stove or in the sun) for two weeks, then straining the leaf matter from the oil. The formulation results in a mixture of extracted compounds and oil, wherein these ingredients constitute 100 weight percent of the formulation. Fetrow teaches that the herbal oil is useful as a compress for treating e.g. bruises, wounds, and abscesses.

Flick discloses massage creams wherein a list of several ingredients includes, for example, seaweed extract (0.5%) in various organic and mineral oils, waxes, surfactants, perfume, and a major proportion (78.7% to 79.2%) of water.

The combination of references does not teach the claimed invention.

The combination of Pletcher with Fetrow and Flick does not teach Applicants' formulation. Both Pletcher and Fetrow disclose extracts obtained by oil extraction. Flick discloses blending an extract obtained by an undisclosed method with various oils, surfactants, and a major proportion of water. None of the references teach a formulation comprising a blend of alcohol extracts of *Sesamum indicum* and *Centella Asiatica*, as is claimed in amended claim 1.

Different mixtures of compounds are extracted from leaf matter by employing different solvents to perform the extraction. Because oils and alcohols differ significantly in terms of what compounds they will dissolve, the mixture of chemicals obtained by alcohol extraction of *Sesamum indicum* and *Centella Asiatica* is expected to be fundamentally different from the mixture of chemicals obtained from an oil extraction of the same leaf matter.

Additionally, none of the references teach the range of concentrations claimed by Applicant. Pletcher teaches a formulation having a combination of oil, leaf matter, and extract, wherein the combination totals 100% of the formulation. Fetrow teaches a similar formulation, except that the leaf matter is strained away from the oil and leaf extract. Flick teaches formulations having 0.5% of seaweed extract. The combination of references does not teach a formulation having a total of between 3 and 35 weight percent of extract. The combination of references does not teach a formulation having about 2 to 20 weight percent alcohol extract of *Sesamum indicum* and about 1 to 15 weight percent alcohol extract of *Centella asiatica*.

The combination of references does not disclose or suggest the claimed invention.

None of the cited references discloses or suggests a formulation comprising alcohol extracts of *Sesamum indicum* and *Centella Asiatica*. While Flick is silent as to the source of the seaweed extract employed in the disclosed formulations, both Pletcher and Fetrow disclose extraction of leaf materials using oil. There is no disclosure in any of the references, alone or in combination, to extract plant matter with alcohol; nor is there any suggestion to extract plant matter with alcohol. As is noted above, the chemicals extracted from leaf matter by an alcohol are expected to be different from those extracted by an oil. There is no disclosure or suggestion in any of the cited references of a formulation employing a chemical mixture resulting from the alcohol extracts of *Sesamum indicum* and *Centella Asiatica*.

Further, none of the cited references disclose or suggest Applicants' weight percentage of alcohol extracts. Applicants' invention is a formulation that provides beneficial effects when ingested by e.g. a mammal. The particular range of concentrations of alcohol extracts are not a simple election. Rather, the formulation is specifically useful as an ingestible formulation. Pletcher teaches herbal oil formulations suitable for aromatherapy. Fetrow teaches formulations useful as compresses for treating e.g. bruises, wounds, and abscesses. Flick teaches massage creams. Thus, none of the cited references teaches an ingestible formulation. As is discussed above, none of the references teach the weight percent of extracts employed by Applicants. Therefore, it cannot be said that the cited references suggest an ingestible formulation having Applicants' weight percentages of alcohol extracts.

The claimed invention produces unexpected results.

There is no suggestion in any of the cited references that an herbal formulation of the claimed invention would have a beneficial effect when administered orally to a mammal. In fact, the cited references teach away from the ingestion of herbal extracts because they teach only herbal formulations suitable for aromatherapy, topical compresses, and massage creams. However, the specification contains numerous examples of the beneficial effects of the formulations of the invention when ingested by mammals. The effects of ingesting the formulations of the claimed invention are unexpected in light of the cited references. The

chemicals present in the formulations as a result of alcohol extraction, and the use of the particular range of concentration of the extracts, provide these unexpected results.

Withdrawal of the rejection is respectfully requested.

Accordingly, based on the foregoing differences, Applicants respectfully submit that the composition of claim 1 is not obvious over the combination of cited references. Claim 1 is thus allowable over the combination of Pletcher, Fetrow, and Flick. All remaining claims ultimately depend from claim 1 and therefore represent further limitations to the subject matter of claim 1. Withdrawal of this rejection is respectfully requested.

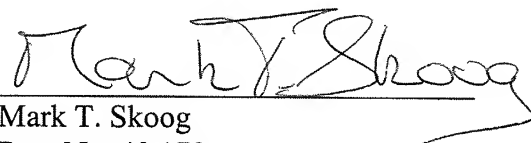
### Summary

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,  
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MTS:kf

  
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